UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
Nora Mead Brownell, Joseph T. Kelliher,
and Suedeen G. Kelly.

Gas Transmission Northwest Corporation	Docket Nos. RP00-414-003 RP01-15-000, RP01-15-004

ORDER ON RECONSIDERATION

(Issued May 11, 2004)

1. On March 29, 2004, Gas Transmission Northwest Corporation (GTN)[1] filed a request for reconsideration of a certain ruling in the Commission's March 29, 2002 Order (the March 29 Order).[2] It states that it seeks reconsideration of the Commission's statement in that order that because GTN is a mileage-based system GTN "should allow firm shippers the right to use secondary delivery points outside of the primary path upon payment of an incremental transportation charge for the additional haul."[3] GTN states that subsequent Commission orders have undermined the basis of that ruling, and the Commission should withdraw the requirement imposed on GTN by the March 29 Order. The Commission will grant reconsideration and will not require GTN to revise its tariff to comply with the March 29 Order on this issue.

[1] GTN was formerly PG&E Gas Transmission, Northwest Corporation.

[2] 98 FERC ¶ 61,365 (2002).

[3] Id. at 62,565.

Background

2. The March 29 Order addresses GTN's original Order No. 637 compliance filing. In that filing GTN stated that since GTN was a mileage-based pipeline, firm shippers only have reserved the specific capacity within their primary paths, and are not entitled to use secondary points outside of their primary path. In the March 29 Order the Commission acknowledged that in view of this, secondary point priority was not an issue. However, the Commission concluded that it was not clear from GTN's tariff whether a firm shipper would be able to use a secondary point outside its path, provided there was capacity available and the shipper agreed to pay the additional transportation charge.[4] Relying on Panhandle Eastern Pipe Line Co.,[5] the Commission stated:

> [t]he Commission has determined that if there is available capacity a pipeline with mileage-based rates should allow shippers the right to use secondary delivery points outside of the primary path upon payment of an incremental transportation charge for the additional haul. Accordingly, GTN should clarify its tariff.[6]

3. In its July 29, 2002 filing to comply with the March 29 Order, GTN interpreted the March 29 Order as requiring GTN to provide firm shipper access to secondary points outside of primary paths, and in that filing GTN requested an extension of time to comply with this requirement due to gas management system implementation issues.

4. On April 9, 2003, the Commission issued an order on GTN's compliance filing.[7] The order acknowledged GTN's clarification that firm shippers on its system are not entitled to use secondary points outside their primary paths upon payment of the incremental charge for the additional mileage, and granted GTN's request for an extension of time to "comply with this part of the March 29 Order."[8] GTN subsequently requested several extensions to comply with this requirement, and to date has not filed to revise its tariff as to this requirement.

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[4] Id.

[5] 78 FERC ¶ 61,292 (1997), reh'g denied, 82 FERC ¶ 61,163 (1998).

[6] 98 FERC at 62,565.

[7] 103 FERC ¶ 61,020 (2003).

[8] Id. at P 12.

5. Subsequent to the Commission's April 9, 2003 Order in this proceeding, the Commission considered the same issue of extended delivery rights beyond the primary path in Texas Eastern.[9] There the Commission permitted a zoned-system pipeline to withdraw its proposal to permit shippers extended delivery rights beyond the primary path zone upon payment of an incremental charge. The Commission stated that "it has not established a consistent policy of requiring pipelines to permit shippers to use flexible points outside of the zones for which the shipper pays,"[10] so it would not impose that requirement on Texas Eastern. In the rehearing order, the Commission acknowledged that at the same time the Commission has "required some pipelines with mileage-based rates to permit shippers to go beyond the primary path, provided capacity is available and the shipper agrees to pay the additional charge."[11]

6. The Commission questioned whether there was a legitimate basis for the differing treatment:

> There may be a legitimate distinction between mileage-based systems and zoned systems. On a mileage-based system, shippers pay only for the primary path, and absent the requirement in these orders, the shipper would be entitled to use secondary points only inside their primary path. In contrast, on systems with rate zones, under Commission policy, the shipper can use secondary points throughout the zones it is paying for, and thus, can use secondary points beyond its primary path with no additional charge. Whether this distinction provides a basis for imposing the requirement on a mileage-based pipeline is not before us here, and we are not deciding that question here. Texas Eastern has zoned rates, and we adhere to our ruling that Order No. 636's flexible point policy was limited to the zone for which the shipper pays.[12]

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[9] 103 FERC ¶ 61,278 at P 20-21, reh'g denied, 105 FERC ¶ 61,039 (2003).

[10] 103 FERC at P 14.

[11] 105 FERC at 61,262 P 14, citing Northern Border Pipeline Co., 99 FERC ¶ 61,183, at P 47 (2002) and PG&E Gas Transmission, Northwest Corp., 98 FERC ¶ 61,355, at 62,565 (2002).

[12] Id. at P 15.

GTN's Request

7. GTN argues that there is no basis for this distinction. It asserts that for purposes of flexibility, the two systems are the same, in contrast to a postage stamp system.

8. GTN refers to Order No. 636-A, where the Commission clarified that a "shipper gets flexibility in receipt and delivery points for the part of the system for which it pays a reservation charge."[13] GTN continues that that order states that if a shipper desires additional flexibility it must pay for that right:

> If the upstream shipper wants to expand its delivery point capability to include 'out-of-path' delivery points, it must obtain that capacity from the pipeline or from another shipper via capacity releasing. But an upstream shipper has no right to downstream capacity solely because it already is a firm shipper.[14]

9. GTN submits that, for purposes of the Commission's flexible point policy, there is no reasonable basis for distinguishing between a system with rates based on mileage and a system with rates based on zones because both utilize distance-sensitive methods of rate design. On a zone-based system, GTN contends a shipper's rate recovers the cost of transportation in the zones traversed. Thus, under Commission policy a shipper is permitted to use flexible points anywhere in those zones because it is paying a rate that recovers the costs of that zone. GTN asserts that a mileage-based system is simply a pipeline with smaller zones. GTN states that it should be considered essentially a 612-mile pipeline consisting of 612 one-mile zones.

10. GTN asserts that on a mileage-based system, such as GTN's, transportation costs are allocated by mile, so a shipper should be limited to using secondary points within its primary path because it is only paying a rate that recovers the cost of transportation within that path. GTN contends that both zone-based and mileage-based systems can be contrasted to a postage stamp system of rate design where a shipper pays a rate that recovers the costs of the entire system. On a postage stamp system, a shipper is permitted to use secondary points anywhere on the system because it is paying for the entire system.

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[13] 1991-1996 FERC Stats. & Regs., Regs. Preambles, ¶ 30,950, at 30,585 (1992).

[14] Id.

11. In summary, GTN argues that the crux of the Commission's flexible point policy is that pipelines are only required to permit shippers to use secondary points within the zone or path for which they pay. GTN contends that this same policy should apply to mileage-based systems in which shippers only pay for the transportation capacity within their primary path. On GTN, shippers do not pay for firm transportation capacity outside of their primary path. Thus, GTN argues, it should not be required to provide secondary point flexibility outside of a shipper's primary path.

Discussion

12. We find that zoned and mileage-based systems should be treated the same for purposes of whether the Commission should require extended delivery rights beyond the primary path. In Order No. 636, the Commission established that a firm shipper has the right to use secondary points as to capacity for which it has paid. Thus, the firm shipper is entitled to use secondary points in any part of a zone which its reservation charge encompasses. Neither Order No. 636, nor Order No. 637 required the pipeline to permit a firm shipper to exercise that right beyond that part of the system for which it has paid through the reservation charge. On a mileage-based system such as GTN, firm shippers only pay for the part of the system within their primary path. Thus, we agree with GTN that it should not be required to revise its tariff to permit a firm shipper under its existing contract to use secondary points beyond the primary path. Moreover, we see no need to require GTN to give its firm shippers a right, as part of their existing firm contract, to use points beyond the path of that contract because if that firm shipper on GTN desires to use points beyond the primary path of its existing contract with GTN, it could enter into a separate contract for short term firm capacity or interruptible service to the new point, provided capacity is available and it pays the charge for the additional mileage. It could also revise its existing contract and change the primary point to the new point.

13. Accordingly, we will grant reconsideration as requested. In its July 29, 2002 filing to comply with the March 29 Order GTN requested, and the Commission granted, an extension of time to comply with the March 29 Order requirement that it provide firm shippers access to secondary points outside their primary paths, and GTN subsequently requested additional extensions to comply with this requirement. To date GTN has not filed to revise its tariff as to this requirement, and as a result of this order GTN need not revise its tariff to include this requirement.

14. Although GTN need not revise its tariff to require it to provide firm shippers extended delivery rights beyond the primary path, GTN cannot refuse to sell interruptible service, or available primary firm service, to that point to a firm shipper wishing to

extend service there. GTN must also schedule the interruptible service taking into account that that service is being fed by firm service.[15]

The Commission orders:

GTN's request for reconsideration is granted and GTN is not required to revise its tariff to permit firm shippers, under their existing contracts, to use secondary points outside of their primary path.

By the Commission.

(S E A L)

Linda Mitry,
Acting Secretary.

[15] See Texas Eastern, 103 FERC ¶ 61,278 at P 23; Order No. 637, FERC Stats. & Regs. ¶ 31,091 at 31,307.